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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,915	07/31/2003	Gunter Kuechler	010408.52444US	7568
23911 7590 08/20/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
WONG, EDNA				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
08/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/630,915

**Applicant(s)**

KUECHLER, GUNTER

**Examiner**

EDNA WONG

**Art Unit**

1795

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 12, 14, 16, 17, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 14, 16, 17, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-083)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

This is in response to the Amendment dated June 30, 2008. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

***Response to Arguments***

**Claim Rejections - 35 USC § 112**

I. Claims **1, 12, 14 and 16-17** have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The rejection of claims 1, 12, 14 and 16-17 under 35 U.S.C. 112, first paragraph, has been withdrawn in view of Applicant's amendment.

II. Claims **1, 12, 14, 16-17 and 31-32** have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The rejection of claims 1, 12, 14, 16-17 and 31-32 under 35 U.S.C. 112, first paragraph, has been withdrawn in view of Applicant's amendment.

III. Claims **16** has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The rejection of claim 16 under 35 U.S.C. 112, second paragraph, has been withdrawn in view of Applicant's amendment.

IV. Claims **12 and 16** have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The rejection of claims 12 and 16 under 35 U.S.C. 112, second paragraph, has been withdrawn in view of Applicant's amendment.

Claim Rejections - 35 USC § 102/103

Claims **1, 17 and 31-32** have been rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over **Webb et al.** (US Patent No. 3,422,213).

With regards to claims 1, 17 and 31-32, the rejection under 35 U.S.C. 102(b) as anticipated by Webb et al. has been withdrawn in view of Applicant's amendment.

With regards to **claims 1, 17 and 31-32**, the rejection under 35 U.S.C. 103(a) as obvious over Webb et al. is as applied in the Office Actions dated October 16, 2007 and January 30, 2008 and incorporated herein. The rejection has been maintained for the

following reasons:

Applicants state that the bulged portion of the connector as shown, for example in Figure 2, while having rounded portions is clearly not round, oval or circular. Nevertheless, in order to remove any doubt in this regard, Applicants have amended Claim 1 to recite that “the compensation section and the central opening formed therein are one of round, oval and polygonal”. The latter is not true of Webb, for the reasons set forth in the Remarks which accompanied the Amendment dated January 16, 2008.

Applicant's state that in view of the disclosed method of fabrication, it would be difficult or impossible to modify the structure of the connector strips in Webb in order to utilize a round, oval or polygonal central opening.

In response, the determination of patentability is based on the product itself. The teaching, suggestion or inference can be found not only in the references but also from knowledge generally available to one of ordinary skill in the art. *Ashland Oil v. Delta Resins* 227 USPQ 657 (CAFC 1985). References are evaluated by what they collectively suggest to one versed in the art, rather than by their specific disclosures. *In re Simon* 174 USPQ 114 (CCPA 1972); *In re Richman* 165 USPQ 509, 514 (CCPA 1970).

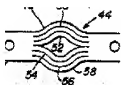
The bulge portion of Webb's connector is the marginal area as presently claimed in claim 1, lines 10-12 (“said central opening is intermediate said first and second connection areas, and is delimited by a surrounding marginal area of said metal strip”).

Present claim 1, lines 8-9, recite: “the compensation section comprises a single

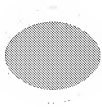
central opening in said metal strip.”

Present claim 1, lines 13-14, recite: “the compensation section and the central opening are one of round, oval, and polygonal.”

Webb teaches:



An oval is:



One having ordinary skill in the art would have found a round, oval, or polygonal compensation section and the central opening obvious absent persuasive evidence that the particular configuration of the claimed compensation section and the central opening was significant (MPEP § 2144.04(IV)(B)).

#### Claim Rejections - 35 USC § 103

Claim **12, 14 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Webb et al.** (US Patent No. 3,422,213) as applied to claims 1, 17 and 31-32 above, and further in view of **Pollard** (US Patent No. 6,034,322).

The rejection of claims 12, 14 and 16 under 35 U.S.C. 103(a) as being unpatentable over Webb et al. as applied to claims 1, 17 and 31-32 above, and further in view of Pollard is as applied in the Office Actions dated October 16, 2007 and January 30, 2008 and incorporated herein. The rejection has been maintained for the reasons as discussed above.

Applicants' remarks have been fully considered but they are not deemed to be persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDNA WONG whose telephone number is (571) 272-1349. The examiner can normally be reached on Mon-Fri 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edna Wong/  
Primary Examiner  
Art Unit 1795

EW  
August 18, 2008